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FCC MAIL SECTION

WILLIAM J. SMITH
Attorney At Law

ALL CORRESPONDENCE TO: POST OFFICE BOX 6655 - SANTA ROSA, CALIFORNIA 95406
OFFICES LOCATED AT: 6400 REDWOOD DRIVE, ROHNERT PARK, CALIFORNIA 94568
TELEPHONE (707) 584-7550 TELEFAX (707) 586-9569

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June 27, 1991

Federal Communications Commission
Office of The Secretary, FM Branch
1919 M Street
Washington, D.C. 20554

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AUGUST 1991

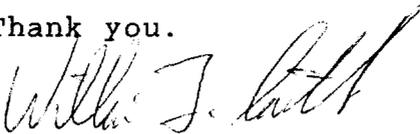
Re: Reply to Dragonfly's Opposition
to Petition to Deny

To Whom It May Concern:

Enclosed for filing are the original and two (2) copies of Reply
to Dragonfly's Opposition to Petition to Deny.

Please return a file-stamped copy to me in the enclosed self
addressed stamped envelope.

Thank you.



WILLIAM J. SMITH

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JUL 2 1991
FM EXAMINER

1 FCC MAIL SECTION

2 JUL 2 6 58 AM '81

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

3
4 In Re Application of

5 DRAGONFLY COMMUNICATIONS, INC. }

File No. 910211MA

6
7 Application For FM
8 Construction Permit for New
FM Channel 240A, 95.9 MHz
Healdsburg, California }

9 To: Secretary,
FM Branch

10
11 REPLY TO DRAGONFLY'S OPPOSITION TO
12 PETITION TO DENY

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14 1. The Opposition to Petition to Deny filed by Dragonfly
15 Communications, Inc. ("Dragonfly") states (p. 2) that Petitioner
16 has made a "bald mis-statement of California law", citing Elysian
17 Heights Residents Association Inc. v. City of Los Angeles (1986)
18 182 Cal. App. 3d 21. However, it is Dragonfly, not Petitioner, who
19 has made a "bald mis-statement of California law", for the reason
20 that Elysian Heights is not the case in point. Elysian Heights
21 holds that building permits need not be scrutinized for general
22 plan consistency, so long as they are consistent with the zoning
23 ordinance.

1 2. What Dragonfly ignores is that communications towers
2 requires a use permit to be issued pursuant to the standards set
3 forth in the Petition to Deny, and use permits are required to be
4 consistent with the general plan under Neighborhood Action Group
5 v. County of Calaveras (1984) 156 Cal. App. 3d 1176. The primacy
6 of the general plan under California law sometimes comes as
7 something of a shock to counsel from other jurisdictions, so
8 Dragonfly's misunderstanding is not uncommon. It is regrettable
9 that Dragonfly should have accused Petitioner of a "bald mis-
10 statement", because, as shown, such language redounds.

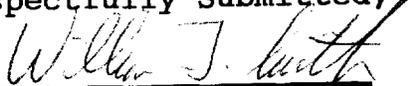
11 3. Dragonfly also attempts to distinguish its 400 foot high
12 tower from a similar tower proposed by KHTT, which was denied last
13 year by the County of Sonoma, by saying that the KHTT proposal
14 would have been on top of the ridge, whereas Dragonfly's is sited
15 lower than the adjoining hillside. Dragonfly apparently urges the
16 Commission to conclude that this will make a dispositive difference
17 to the County of Sonoma. The problem is that Dragonfly has not
18 shown that Dragonfly will be able to comply with all of the
19 criteria required for such towers. That is, a similar tower
20 proposal was recently turned down on land bearing the same zoning
21 and same general plan land use designations as Dragonfly's, but
22 Dragonfly has not shown how its tower would comply with local law.

CONCLUSION

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4. The Petition to Deny should be granted because Dragonfly's chances of obtaining local approval has been demonstrated to be improbable.

Respectfully Submitted,



Dated: June 27, 1991

WILLIAM J. SMITH
Attorney at Law
In Propria Persona
P.O. Box 6655
Santa Rosa, CA. 95406

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PROOF OF SERVICE

I am a citizen of the United States and a resident of the County of Sonoma, California. I am over the age of 18 years and am not a party to the within action. On June 27, 1991, I served the attached REPLY TO DRAGONFLY'S OPPOSITION TO PETITION TO DENY by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Postal Service Office, Santa Rosa Main Branch, Santa Rosa, California, addressed as follows:

Mario Edgar Deas
126 Mill Street
Healdsburg, CA. 95448

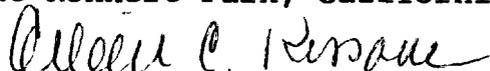
George L. Lyon, Jr., Esq.
Lukas, McGowan, Nace & Guttierrez
1819 H Street N.W.
Suite 700
Washington, D.C. 20006
Attorneys for Linda D. Beckwith

Michael Couzens, Esq.
385 8th Street, 2nd Floor
San Francisco, CA. 94103
Attorney for Dragonfly
Communications, Inc.

Lee W. Shubert, Esq.
Haley, Bader & Potts
Suite 600
2000 M Street, N.W.
Washington, D.C. 20036-3374
Attorneys for Deas
Communications, Inc.

I, EILEEN C. KISSANE certify under penalty of perjury that the foregoing is true and correct.

Executed on June 27, 1991, at Rohnert Park, California.


EILEEN C. KISSANE